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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/607,728

06/27/2003

Neal C. Oliver

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6497

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EXAMINER

DUONG, DUC T

ART UNIT

PAPER NUMBER

2616

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/24/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/607,728	OLIVER ET AL	
	Examiner	Art Unit	
	Duc T. Duong	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11-22-04 10-2-03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 2, 4-6, 9-13, 15-19, 21-24, and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen et al (US Patent 6, 975,638 B1).

Regarding to claims 1, 11, 16, and 23, Chen discloses an apparatus (fig. 7) comprising a classification unit C1-2 to examine packets received from a network (col. 7 lines 22-26), determine a path (egress port/destination port) to be taken by each packet through a switch fabric 70 (col. 7 lines 26-29), and classify each packet into one of a plurality of flow bundles based on the packet's destination and path through the switch fabric (col. 7 lines 29-45); a mapping unit (CAM) coupled to the classification unit to place each packet into one of a plurality of queues F1-2 based on the flow bundle to

Art Unit: 2616

which the packet has been classified (col. 7 lines 29-45); one or more traffic shapers 124-126 coupled to the mapping unit to regulate the rate at which traffic moves out of the queues (col. 7 lines 52-67 and col. 8 lines 1-25); and a scheduler 136 coupled to the traffic shapers to regulate the order in which packets in the queues will be transmitted to a next destination through the switch fabric (col. 8 lines 45-52).

Regarding to claims 2, 17, and 24, Chen discloses regulating the rate at which traffic moves out of the queues with a traffic shaping algorithm (col. 7 lines 52-62).

Regarding to claims 4, 15, 18, and 26, Chen discloses labeling each packet with information identifying an associated flow and flow bundle (col. 7 lines 41-43).

Regarding to claims 5 and 21, Chen discloses classifying each packet into one of a plurality of flow bundles based on the packet's destination, path through the switch fabric, and priority (col. 7 lines 29-37).

Regarding to claim 6, Chen discloses scheduling the packets in the queues for transmission using a Round Robin scheduling algorithm (col. 7 lines 46-49).

Regarding to claims 9 and 19, Chen discloses determining which traffic class each received network packet belongs based on protocols associated with the packet (col. 2 lines 3-8).

Regarding to claims 10, 13, and 22, Chen discloses forwarding the packets to a switch 80 coupled to the switch fabric for transmission to the next destination (fig. 3 col. 5 lines 49-51).

Art Unit: 2616

Regarding to claim 12, Chen discloses an access unit L1-2 coupled to the classification unit to receive packets from and transmit packets to the network (col. 7 lines 13-21).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 14, 20, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al in view of Hooman et al (US Patent 7, 155,716 B2).

Regarding to claims 3, 14, 20, and 25, Chen et al discloses all the limitations with respect to claims 1, 11, 16, and 23, except for the classification unit comprises a load balancing element to determine a path to be taken by each packet through a switch fabric based on load balancing. However, Hooman discloses a method and system for scheduling transmission of packets comprising a classifier 314 that serve to provide load balancing (fig. 3 col. 3 lines 47-49). Thus, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to employ such classifier as taught by Hooman in Chen's system to avoid overflow in the queues.

5. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al in view of Duffield et al (US Patent 6,452,933 B1).

Regarding to claims 7 and 8, Chen et al discloses all the limitations with respect to claim 1, except for scheduling the packets in the queues for transmission comprises

Art Unit: 2616

scheduling the packets in the queues for transmission using a Longest Delay First algorithm (claim 7) or a Stepwise QoS Scheduler SQS (claim 8). However, Duffield discloses a method and apparatus for routing packets in a communication network comprising a scheduler 200 implementing the Longest Delay First algorithm and the Least Time to Overflow algorithm (fig. 2 col. 5 lines 4-25). Thus, it would have been obvious to a person of ordinary skill in the art to employ such scheduler as taught by Duffield in Chen's system for delivery of packets having various properties and criteria requirements.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-F (9:00 AM-6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

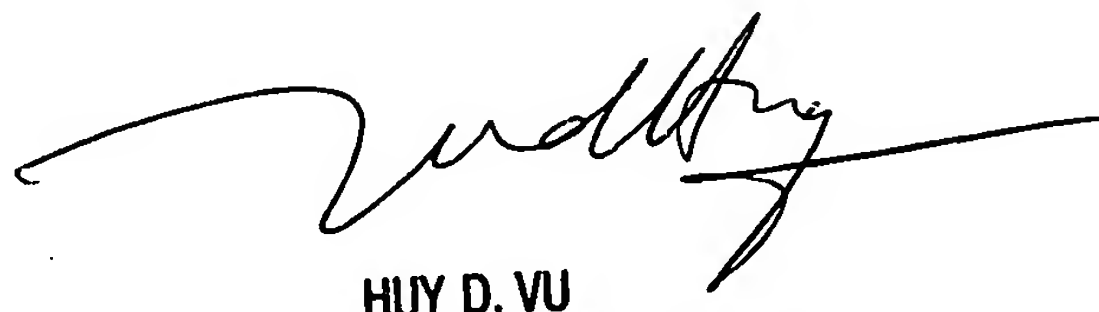
Application/Control Number: 10/607,728

Page 6

Art Unit: 2616

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, appearing to read 'Huy D. Vu', with a long horizontal stroke extending to the right.

HUY D. VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600